

REMARKS

Reconsideration of the pending claims is respectfully requested on the basis of the following particulars.

1. Inventorship

As verbally communicated to the examiner on September 19, 2005, an inventorship dispute exists between the inventors of the instant application and the inventor of U.S. application no. 10/821,041. Proceedings are on-going in the United Kingdom wherein a hearing is scheduled in January 2006, with a resolution expected by late January or February 2006.

Up until this time, there has been no final resolution on the correct inventorship. Once a ruling is issued by the court in the current proceeding, the instant applicants will adopt the ruling and promptly take the necessary measures to correct any inventorship matters in the instant application.

Should the examiner require additional information on this inventorship matter, the examiner is invited to contact the undersigned representative of the instant applicants.

2. Rejection of claim 31 under 35 U.S.C. § 112, second paragraph

This rejection is moot in view of the cancellation of claim 31.

3. Rejection of claims 15, 16, 18, 19, 21, 22 and 50 under 35 U.S.C. § 102(b) as being anticipated by U.S. patent 3,056,724 (Marston)

This rejection is traversed on the basis that the Marston patent fails to disclose every limitation required by the rejected claims. Specifically, the Marston patent relates to pellets for supplying small amounts of biologically active substances. These substances, however, are of such a size and weight that would be inappropriate for use in a pesticidal composition. The pellets described in the Marston patent are

clearly designed for use in large animals, such as cattle, where they are retained in the rumen for an extended period of time.

In view of these observations, the Marston patent does not disclose a pesticidal composition having the qualities required by the rejected claims. Therefore, withdrawal of this rejection is respectfully requested.

4. Rejection of claims 15, 16, 18-21, 30-32, 34-44, 48 and 50 under 35 U.S.C. § 102(b) as being anticipated by U.S. patent 5,565,215 (Gref)

This rejection is traversed on the basis that the Gref patent fails to disclose every limitation required by the rejected claims. Particularly, the Gref patent discloses injectable nanoparticles or microparticles which are not rapidly cleared from the blood stream by macrophages, and can be modified as necessary to achieve variable release rates so as to target specific cells or organs, as desired.

The Gref patent is clearly not directed towards a pesticidal composition in particle form, or to a method of killing or controlling insects, as required by the rejected claims. Therefore, withdrawal of this rejection is respectfully requested.

5. Rejection of claim 50 under 35 U.S.C. § 102(b) as being anticipated by U.S. patent 5,985,660 (Galy)

This rejection is traversed on the basis that the Galy patent fails to disclose every limitation required by claim 50. The Galy patent is directed towards methods of enriching for hematopoietic cell populations which are enriched in myeloid or lymphoid or both progenitor cells based on cell specific markers. The Galy patent discloses a method for separating differentiated cells using magnetic beads and not a pesticidal composition as recited in claim 50.

Therefore, withdrawal of this rejection is respectfully requested.

6. Rejection of claims 15, 16, 18, 21, 22, 39, 31, 33-41, 44, 48 and 50 under 35 U.S.C. § 102(b) as being anticipated by U.S. patent 3,274,052 (Yaffe)

This rejection is traversed on the basis that the Yaffe patent fails to disclose every limitation required by the rejected claims. The Yaffe patent discloses methods for producing granular pesticide formulations. The granules of the Yaffe patent, however, are of considerable larger size than the particles of the pending claims, and therefore the Yaffe patent cannot be construed to teach the pesticidal composition of the rejected claims. Moreover, the Yaffe patent teaches that the pesticide is to be distributed by natural or artificial irrigation, and the pesticide is not designed to be contacted or attached to the pest.

In view of these observations, the Yaffe patent does not disclose a pesticidal composition or method for killing or controlling insects having the qualities required by the rejected claims. Therefore, withdrawal of this rejection is respectfully requested.

7. Rejection of claims 22 and 33 under 35 U.S.C. § 103(a) as being unpatentable over U.S. patent 5,565,215 (Gref) in view of U.S. patent 5,693,321 (Klaveness)

This rejection is traversed on the basis that the Gref and Klaveness patents, whether considered individually or collectively, fail to disclose or suggest every limitation required by claims 22 and 33. The deficiencies of the Gref patent are described above. The Klaveness patent relates to polymers containing diester units. There is no suggestion to combine these patents to make the pesticidal composition of claims 22 and 33. Thus, neither of these patents disclose or suggest a pesticidal composition, as claimed in the pending application, and therefore are not prejudicial to the inventiveness of claims 22 and 33.

Therefore, withdrawal of this rejection is respectfully requested.

8. Rejection of claims 19, 20, 42 and 43 under 35 U.S.C. § 103(a) as being unpatentable over U.S. patent 3,274,052 (Yaffe) in view of U.S. patent 5,888,500 (Marshall)

This rejection is traversed on the basis that the combination of the Yaffe and Marshall patents fails to disclose or suggest the pesticidal composition and method for killing or controlling insects. The shortcomings of the Yaffe patent are described above in that it does not disclose particles that are neither suitable for the pesticidal composition, nor capable of being retained on a pest or insect. The Marshall patent fails to make up for these basic shortcomings.

Therefore, withdrawal of this rejection is respectfully requested.

9. Rejection of claim 32 U.S.C. § 103(a) as being unpatentable over U.S. patent 3,274,052 (Yaffe)

Since claim 32 depends from claim 30, which was distinguished above over the Yaffe patent, withdrawal of this rejection is respectfully requested.

10. Conclusion

If any issues remain that may be resolved by a telephone or facsimile communication with the applicants' attorney, the examiner is invited to contact the undersigned at the numbers shown below.

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Respectfully submitted,



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